IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 21201 of 2007(Y)

PETITIONER:

SHABU C.M., PROPRIETOR,
ROYAL IMPEX, TAJ BUILDING, IIND FLOOR,
KECHERY, THRISSUR 680501.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. THE JOINT DIRECTOR OF FOREIGN TRADE,
ENFORCEMENT DIVISION, CHITTOOR ROAD,
ERNAKULAM, KOCHI-682011.

2. THE DIRECTOR GENERAL,
DIRECTORATE OF FOREIGN TRADE,
UDYOG BHAVAN, NEW DELHI 110001.

3. THE DISTRICT COLLECTOR,
THRISSUR.

4. THE DEPUTY TAHSILDAR(REVENUE RECOVERY),
TALUK OFFICE, TALAPPILLY,
WADAKKANCHERY.

BY ADV. SRI.C.S.AJITH PRAKASH, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 21201 of 2007

Dated, this the 18th day of July, 2007

J U D G M E N T

Petitioner is served with Ext.P1 penalty order by the Joint Director of Foreign Trade for failure to comply with the export obligation after importing goods under the duty exemption scheme. Even though order was passed on 21/03/2003, petitioner is stated to have filed appeal with a delay of more than one year. Appeal is obviously not maintainable, because the Tribunal does not have power to condone delay of more than 30 days, as provided in the first proviso to Section 15(1) of the Foreign Trade (Development and Regulation) Act 1992. Petitioner has not chosen to file revision petition alternately. Review filed vide Ext.P2 is also not maintainable. It is seen from the penalty order that the duty evaded by the petitioner is of Rs. 5,26,614/- and along with it interest is also payable. This amount is in addition to the Bank Guarantee of Rs.1,88,000/- adjusted by the Department. In the circumstances, I feel, petitioner can be given an opportunity to contest the penalty but on condition that petitioner pays the evaded duty amount at least without interest. In the circumstances,

petitioner is given an opportunity to contest the penalty order in revision before the 2nd respondent or before the Government, provided, petitioner files it after payment of the duty amount of Rs. 5,26,614/- within six weeks from now. This writ petition is therefore disposed of directing 4th respondent to withhold recovery proceedings for six weeks from now and if the above amount is paid, and the receipt of the same along with copy of the revision petition filed before the 2nd respondent or before the Government is produced, RR proceedings will be kept in abeyance for four months thereafter. If revision is filed as above, revisional authority will take up the revision and dispose of the same within three months from the date of receipt of the revision petition. Recovery after disposal of the revision petition will be based on orders in revision petition. If payment as above is not made within six weeks from now, respondents can proceed with all recovery steps including arrest under Sec. 65, if petitioner has means.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg